

**UNITED STATES DISTRICT COURT**

**FOR THE  
DISTRICT OF MAINE**

NEW HAMPSHIRE MOTOR TRANSPORT  
ASSOCIATION, MASSACHUSETTS  
MOTOR TRANSPORTATION  
ASSOCIATION, INC., AND VERMONT  
TRUCK & BUS ASSOCIATION, INC.,

Plaintiffs,

v.

G. STEVEN ROWE, in his official capacity as  
Attorney General for the State of Maine,

Defendant.

**CIVIL ACTION NO.: 03-CV-178-B-DBH**

**DEFENDANT'S RESPONSE TO PLAINTIFFS' STATEMENT OF MATERIAL FACTS  
AND STATEMENT OF ADDITIONAL MATERIAL FACTS**

Defendant, Maine Attorney General G. Steven Rowe, hereby responds to the Statement of Material Facts submitted by plaintiff in connection with plaintiffs' motion for summary judgment:

1. For purposes of resolving plaintiff's motion for summary judgment, defendant admits the facts set forth in paragraph 1 of plaintiff's Statement of Material Facts.

2. For purposes of resolving plaintiff's motion for summary judgment, defendant admits the facts set forth in paragraph 2 of plaintiff's Statement of Material Facts.

3. For purposes of resolving plaintiff's motion for summary judgment, defendant admits the facts set forth in paragraph 3 of plaintiff's Statement of Material Facts.

4. For purposes of resolving plaintiff's motion for summary judgment, defendant admits the facts set forth in paragraph 4 of plaintiff's Statement of Material Facts.

**DEFENDANT'S STATEMENT OF ADDITIONAL MATERIAL FACTS**

Pursuant to Local Rule 56(b), defendant hereby submits the following statement of additional material facts as to which defendant contends there is no genuine issue of material fact to be tried:

1. The vast majority of smokers (82 percent) begin smoking at or before age 18. *See* Centers for Disease Control, *The Great American Smokeout*, 45 Morbidity and Mortality Report 961 (1996), available at [http://www.cdc.gov/tobacco/research\\_data/adults\\_prev/mm4544.pdf](http://www.cdc.gov/tobacco/research_data/adults_prev/mm4544.pdf)

2. Most people who begin smoking at or before the age of eighteen are addicted to tobacco by the time they reach age 20. *See* United States Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, Preventing Tobacco Use Among Young People: A Report of the Surgeon General, 1994 (hereafter "1994 Surgeon General's Report"), available at [http://www.cdc.gov/tobacco/sgr/sgr\\_1994/index.htm](http://www.cdc.gov/tobacco/sgr/sgr_1994/index.htm)

3. Minors smoke an estimated 900 million packs of cigarettes per year, producing an estimated revenue of \$1,500,000,000 per year for the tobacco industry. *See* Clark, Natanblut, Schmitt, Wolters, Iachan, Factors Associated With Tobacco Sales to Minors, Journal of the American Medical Association, Vol. 284, No. 6 at 729 n.1, August 9, 2000, *citing*, J. DiFranza *et al.*, State and Federal Revenues from Tobacco Consumed by Minors, 89 Am. J. of Public Health 1106, 1106-8 (1999).

4. The younger a person begins smoking, the more likely (s)he will be unable to quit later in life and will suffer a disease attributable to tobacco use. *See* International Agency for Research on Cancer, ARC Monographs Programme Declares Second Hand Smoke Carcinogenic

to Humans, *available at* <http://www.iarc.fr/pageroot/preleases/preleases/pr141a.html>.

5. According to its website, UPS offers a service called “ Delivery Confirmation/Adult Signature Required” and provides that service for a charge of only \$1.75. See <http://www.ups.com/content/us/en/resources/select/sending/options/delivery.html>

Dated: November 25, 2003

Respectfully submitted,

G. STEVEN ROWE  
Attorney General

PAUL STERN  
Deputy Attorney General

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